

member may be a full-time employee [of the member], [or with the prior written approval of the Exchange, may be] a part-time employee or independent contractor of the member. *Member firms for which the Exchange is the Designated Examining Authority ("DEA") must provide prompt written notice to the Exchange's Department of Financial and Sales Practice Compliance for each person designated as a Financial/Operations Principal reporting whether such person is a full-time employee, part-time employee, independent contractor or has any outside business affiliations.*

(b) No change.

* * * Interpretations and Policies:
.01—.03 No change.

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CHAPTER IX

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Doing Business with the Public

Rule 9.4. Other Affiliations of Registered [Representatives] Associated Persons

(a) *No person associated with a member in any registered capacity shall be employed by, or accept compensation from, any other person or entity as a result of any business activity, other than a passive investment, outside the scope of his/her relationship with his/her employer firm, unless the person has provided prompt written notice to the member and has received prior written consent of the member.*

(b) Except with the prior written consent of the member and [express] prompt written notice to [permission of] the Exchange, every Registered Options Principal, Sales Supervisor, and Financial/Operations Principal, registered with a member for which the Exchange is the Designated Examining Authority ("DEA") [and Registered Representative] shall devote his/her entire time during business hours to the business of the member organization employing [him] or compensating him/her. [or to the business of its affiliates which are engaged in the transaction of business as a broker or dealer in securities or commodities or in such other businesses as have been approved by the Exchange.]

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B. Description of the Proposed Rule Change

Currently, CBOE rule 9.4 ("Other Affiliations of Registered Representatives") requires a member firm's Registered Representatives and Registered Options Principals ("ROPs") to obtain express written permission

from the Exchange in order to engage in any business, other than that of their member organization, during business hours. Further, CBOE rule 3.6A ("Qualification and Registration of Certain Associated Persons") provides that a member firm may employ a part-time employee or independent contractor as a Financial/Operations Principal, provided that it receives the prior written approval of the Exchange to do so.

Pursuant to the proposed rule change, CBOE would amend rule 9.4 to apply to all of a member firm's registered APs. The rule would now provide that, other than in the case of a passive investment, all such persons would be required to give prompt written notice to the employing member, and to receive the member's prior written consent, with respect to outside business activities. Where CBOE is the firm's Designated Examining Authority, and the AP in question is a ROP, Sales Supervisor, or Financial / Operations Principal, the CBOE will also require prompt written notice to the Exchange. CBOE rule 3.6A's restrictions on FINOPs would also be amended with changes corresponding to the new provisions of rule 9.4.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,⁸ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission believes that the proposed rule change will provide CBOE with information that it needs to regulate its member firms. The Commission further notes that the proposed rules are similar to rules of other self-regulatory organizations.⁹ Finally, the proposed rule change does not alter in any way the obligation of a CBOE member or member organization to oversee the operation of its business and supervise the performance of its

associated persons, including any potential conflicts of interest involving any associated person, in a manner that assures compliance with the Act and rules and regulations thereunder, as well as applicable rules of the CBOE. To this end, the Commission notes that CBOE member firms will be obligated to review and approve in writing any outside business arrangements of their personnel.

Therefore, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, and to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change, as amended (File No. SR-CBOE-2003-02) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47812; File No. SR-CME-2003-01]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Chicago Mercantile Exchange To Adopt, on a Permanent Basis, a Standard Under Which a Market Maker Can Qualify for Exclusion From CME's Margin Rules

May 7, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 7, 2003, the Chicago Mercantile Exchange ("CME" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by CME. The Commission is publishing this notice to solicit comments on the proposed rule change from interested

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See American Stock Exchange rule 342(b), National Association of Securities Dealers rule 3030, New York Stock Exchange rule 346(b), Pacific Exchange rule 1.26(d) and Philadelphia Stock Exchange rule 793.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.